

CLAIM AMENDMENTS

Please amend the claims as follows:

1-12. (Canceled)

13. (Previously presented) A seed blend comprising refuge seeds and at least one variety of transgenic crop seeds for use in planting in a field, wherein said seed blend comprises a refuge seed and a first transgenic crop seed in a uniform mixture; wherein said mixture consists of from about 80% to about 99% first transgenic crop seed, wherein the first transgenic crop seed comprises a first insecticidal transgene and a second insecticidal transgene, and wherein said refuge seed does not contain the first and second insecticidal transgenes, and further wherein at least one of the insecticidal transgenes is insecticidal to a lepidopteran insect.

14. (Canceled)

15. (Currently amended) The seed blend of claim 13, wherein ~~said mixture further comprises a composition selected from the group consisting of~~

- ~~a) — said first transgenic crop seed lacking a seed treatment; and~~
- ~~b) — said first transgenic crop seed is treated with a seed treatment.~~

16. (Currently amended) The seed blend of claim 13, ~~wherein said mixture further comprises a composition selected from the group consisting of~~

- ~~a) — said refuge seed lacking a seed treatment; and~~
- ~~b) — said refuge seed is treated with a seed treatment.~~

17. (Previously presented) The seed blend of claim 15, wherein said seed treatment comprises a pesticidal agent selected from the group consisting of insecticides, acaricides, nematocides, fungicides, bactericides, and herbicides.

18. (Previously presented) The seed blend of claim 16, wherein said seed treatment comprises a pesticidal agent selected from the group consisting of insecticides, acaricides, nematocides, fungicides, bactericides, and herbicides.

19. (Previously presented) The seed blend of claim 17, wherein said pesticidal agent is an

insecticide selected from the group consisting of a recombinant acyl lipid hydrolase protein, a *Bacillus sphearicus* insecticidal protein, *Bacillus laterosporous* insecticidal protein, a insecticidal protein derived from a *Xenorhabdus* bacteria species, a insecticidal protein derived from a *Photorhabdus* bacteria species, a *Bacillus thuringiensis* insecticidal δ -endotoxin protein, vegetative insecticidal protein (VIP), and an insecticidal sRNAi molecule.

20. (Previously presented) The seed blend of claim 17, wherein said pesticidal agent is selected from the group consisting of pyrethrins, synthetic pyrethroids, oxadizine derivatives, chloronicotinyls, nitroguanidine derivatives, triazoles, organophosphates, pyrrols, pyrazoles, phenyl pyrazoles, diacylhydrazines, biological/fermentation products, and carbamates.

21. (Previously presented) The seed blend of claim 20, wherein said pesticidal agent is:

a) a pyrethrin selected from the group consisting of 2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one ester of 2,2-dimethyl-3-(2methyl propenyl)-cyclopropane carboxylic acid, (2-methyl-1-propenyl)-2-methoxy-4-oxo-3-(2 propenyl)-2-cyclopenten-1-yl ester and mixtures of cis or trans isomers thereof;

b) a synthetic pyrethroid selected from the group consisting of (s)-cyano(3-phenoxyphenyl)methyl 4-chloro alpha (1-methylethyl)benzeneacetate (fenvalerate), (S)-cyano (3-phenoxyphenyl) methyl (S)-4-chloro-alpha-(1-methylethyl) benzeneacetate (esfenvalerate), (3-phenoxyphenyl)-methyl(+)cis-trans-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxylate (permethrin), (\pm) alpha-cyano-(3-phenoxyphenyl) methyl(+)-cis,trans-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropane carboxylate (cypermethrin), beta-cypermethrin, theta cypermethrin, S-cyano (3-phenoxyphenyl) methyl (\pm) cis/trans 3-(2,2-dichloroethenyl) 2,2 dimethylcyclopropane carboxylate (zetacypermethrin), (s)-alpha-cyano-3-phenoxybenzyl (IR,3R)-3-(2,2-dibromovinyl)-2,2-dimethyl cyclopropanecarboxylate (deltamethrin), alpha-cyano-3-phenoxybenzyl 2,2,3,3-tetramethyl cyclopropanecarboxylate (fenpropathrin), (RS)-alpha-cyano-3- phenoxybenzyl(R)-242-chloro-4-(trifluoromethyl)butanoate (tafluvalinate), (2,3,5,6-tetrafluoro-4-methylphenyl)-methyl-(1 alpha, 3 alpha)-(Z)-(\pm)-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate (tefluthrin), (\pm)-cyano (3-phenoxyphenyl) methyl (\pm)-4-(difluoromethoxy)-alpha-(1-methyl ethyl) benzeneacetate (flucythrinate), cyano(4-fluoro-3-phenoxyphenyl)methyl 3-[2-chloro-2-(4-chlorophenyl)ethyl]-2,2-dimethylcyclopropanecarboxylate (flumethrin), cyano(4- fluoro-3-phenoxyphenyl) methyl 3-(2,2-

dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate (cyfluthrin), beta cyfluthrin, transfluthrin, (S)-alpha-cyano-3-phenoxybenzyl(Z)-(1R-cis)-2,2-dimethyl-3-[2-(2,2,2-trifluoro-trifluoromethyl-ethoxycarbonyl)vinylcyclopropane carboxylate (acrinathrin), (IR cis) S and (IS cis) R enantiomer isomer pair of alpha-cyano-3-phenoxybenzyl-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropane carboxylate (alpha-cypermethrin), [IR,3S)3(1'RS)(1',2',2',2'-tetrabromoethyl)]-2,2-dimethyl cyclopropanecarboxylic acid (s)-alpha-cyano-3-phenoxybenzyl ester (tralomethrin), cyano-(3-phenoxyphenyl) methyl 2,2-dichloro-1-(4-ethoxyphenyl)cyclopropane carboxylate (cycloprothrin), [1a, 3a(Z)]-(±)-cyano-(3-phenoxyphenyl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate (cyhalothrin), [1 alpha (s), 3 alpha(z)]-cyano(3-phenoxyphenyl) methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropane carboxylate (lambda cyhalothrin), (2-methyl [1,1'-biphenyl]-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-cyclopropanecarboxylate (bifenthrin), 5-1-benzyl-3-furylmethyl-d-cis(1R,3S,E)2,2-dimethyl-3-(2-oxo,-2,2,4,5-tetrahydrothiophenylidenemethyl)cyclopropane carboxylate (kadethrin), [5-(phenyl methyl)-3-furanyl]-3-furanyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropane carboxylate (resmethrin). (1R-trans)-[5-(phenylmethyl)-3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (bioresmethrin), 3,4,5,6-tetrahydrophthalimidomethyl-(IRS)-cis-trans-chrysanthemate (tetramethrin), 3-phenoxybenzyl-d,l-cis,trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate (phenothrin), empenethrin, cyphenothrin, prallethrin, imiprothrin, (RS)-3-allyl-2-methyl-4-oxocyclopent-2-enyl-(1A,3R; 1R,3S)-2,2-dimethyl-3-(2-methylprop-1-enyl) cyclopropane carboxylate (allethrin), bioallethrin, and ZXI8901;

c) an oxadiazine derivative selected from the group consisting of 5-(2-chloropyrid-5-ylmethyl)-3-methyl-4-nitroiminoperhydro-1,3,5-oxadiazine, 5-(2-chlorothiazol-5-ylmethyl)-3-methyl-4-nitroiminoperhydro-1,3,5-oxadiazine, 3-methyl-4-nitroimino-5-(1-oxido-3-pyridinomethyl) perhydro-1,3,5-oxadiazine, 5-(2-chloro-1-oxido-5-pyridiniomethyl)-3-methyl-4-nitroiminoperhydro-1,3,5-oxidiazine, 3-methyl-5-(2-methylpyrid-5-ylmethyl)-4-nitroiminoperhydro-1,3,5-oxadiazine, and thiamethoxam;

d) a chloronicotinyl insecticide selected from the group consisting of acetamiprid ((E)-N-[(6-chloro-3-pyridinyl)methyl]-N'-cyano-N-methyleneimidamide), imidacloprid (14(6-

chloro-3-pyridinylmethoxy]-N-nitro-2-imidazolidinimine), and nitenpyram (N-[(6-chloro-3-pyridinyl)methyl]-N-ethyl-N'-methyl-2-nitro-1,1-ethenediamine);

e) a nitroguanidine insecticide selected from the group consisting of pyrroles: pyrazoles chlorfenapyr (4-bromo-2-(4-chlorophenyl)-1-ethoxymethyl-5-trifluoromethylpyrrole-3-carbonitrile), fenpyroximate ((E)-1,1-dimethylethyl-4-[[[(1,3-dimethyl-5-phenoxy-1H-pyrazole-4-yl)methylene]amino]oxy]methyl]benzoate), and tebufenpyrad (4-chloro-N[[4-(1,1-dimethylethyl)phenyl]methyl]-3-ethyl-1-methyl-1H-pyrazole-5-carboxamide);

f) a phenyl pyrazole selected from the group consisting of fipronil (5-amino-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)sulfinyl]-1H-pyrazole-3-carbonitrile), a diacylhydrazine, halofenozide (4-chlorobenzoate-2-benzoyl-2-(1,1-dimethylethyl)-hydrazide), methoxyfenozide (RH-2485, N-tert-butyl-N'-(3-methoxy-4-tolyl)-3,5-xylolhydrazide), and tebufenozide (3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide);

g) a triazole selected from the group consisting of amitrole and triazamate;

h) a biological/fermentation product selected from the group consisting of avermectin (abamectin) and spinosad (XDE-105);

i) an organophosphate insecticide selected from the group consisting of acephate, chlorpyrifos, chlorpyrifos-methyl, diethoxy-(6-methyl-2-propan-2-ylpyrimidin-4-yl)oxy-sulfanylidene phosphorane, fenamiphos, and diethyl 2-dimethoxyphosphinothioylsulfanylbutedioate; or

j) a carbamate insecticide selected from the group consisting of aldicarb, carbaryl, carbofuran, oxamyl, and thiodicarb.

22. (Previously presented) The seed blend of claim 18, wherein said pesticidal agent is an insecticide selected from the group consisting of a recombinant acyl lipid hydrolase protein, a *Bacillus sphearicus* insecticidal protein, *Bacillus laterosporous* insecticidal protein, an insecticidal protein derived from a *Xenorhabdus* bacteria species, an insecticidal protein derived from a *Photorhabdus* bacteria species, a *Bacillus thuringiensis* insecticidal δ -endotoxin protein, vegetative insecticidal protein (VIP), and an insecticidal sRNAi molecule.

23. (Previously presented) The seed blend of claim 18, wherein said pesticidal agent is selected from the group consisting of pyrethrins, synthetic pyrethroids, oxadizine derivatives,

chloronicotinyis, nitroguanidine derivatives, triazoles, organophosphates, pyrrols, pyrazoles, phenyl pyrazoles, diacylhydrazines, biological/fermentation products, and carbamates.

24. (Previously presented) The seed blend of claim 23, wherein said pesticidal agent is:

a) a pyrethrin selected from the group consisting of 2-allyl-4-hydroxy-3-methyl-2-cyclopenten-1-one ester of 2,2-dimethyl-3-(2methyl propenyl)-cyclopropane carboxylic acid, (2-methyl-1-propenyl)-2-methoxy-4-oxo-3-(2 propenyl)-2-cyclopenten-1-yl ester and mixtures of cis or trans isomers thereof;

b) a synthetic pyrethroid selected from the group consisting of (s)-cyano(3-phenoxyphenyl)methyl 4-chloro alpha (1-methylethyl)benzeneacetate (fenvalerate), (S)- cyano (3-phenoxyphenyl) methyl (S)-4-chloro-alpha-(1-methylethyl) benzeneacetate (esfenvalerate), (3-phenoxyphenyl)-methyl(+)-cis-trans-3-(2,2-dichloroethenyl)-2,2- dimethylcyclopropanecarboxylate (permethrin), (±) alpha-cyano-(3-phenoxyphenyl) methyl(+)-cis,trans-3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropane carboxylate (cypermethrin), beta-cypermethrin, theta cypermethrin, S-cyano (3-phenoxyphenyl) methyl (±) cis/trans 3-(2,2-dichloroethenyl) 2,2 dimethylcyclopropane carboxylate (zetacypermethrin), (s)-alpha-cyano-3-phenoxybenzyl (IR,3R)-3-(2,2-dibromovinyl)-2,2- dimethyl cyclopropanecarboxylate (deltamethrin), alpha-cyano-3-phenoxybenzyl 2,2,3,3,-tetramethyl cyclopropoanecarboxylate (fenpropathrin), (RS)-alpha-cyano-3- phenoxybenzyl(R)-2-[2-chloro-4-(trifluoromethyl)phenyl]-3-methylbutanoate (taufluvalinate), (2,3,5,6-tetrafluoro-4-methylphenyl)-methyl-(1 alpha, 3 alpha)-(Z)-(±)-3-(2- chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate (tefluthrin), (±)- cyano (3-phenoxyphenyl) methyl (±)-4-(difluoromethoxy)-alpha-(1-methyl ethyl) benzeneacetate (flucythrinate), cyano(4-fluoro-3-phenoxyphenyl)methyl 3-[2-chloro-2-(4-chlorophenyl)ethyl]-2,2-dimethylcyclopropanecarboxylate (flumethrin), cyano(4- fluoro-3-phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate (cyfluthrin), beta cyfluthrin, transfluthrin, (S)-alpha-cyano-3- phenoxybenzyl(Z)-(IR-cis)-2,2-dimethyl-3-(2,2,2-trifluoro-2,2,2-trifluoromethyl-ethoxycarbonyl)vinyl]cyclopropane carboxylate (acrinathrin), (IR cis) S and (IS cis) R enantiomer isomer pair of alpha-cyano-3-phenoxybenzyl 1-3-(2,2dichlorovinyl)-2,2- dimethylcyclopropane carboxylate (alpha-cypermethrin), [IR,3S]3(1'RS)(1',2',2',2'- tetrabromoethyl)1-2,2-dimethyl cyclopropanecarboxylic acid (s)-alpha-cyano-3- phenoxybenzyl ester (tralomethrin), cyano-(3-phenoxyphenyl) methyl 2,2-dichloro-1-(4- ethoxyphenyl)cyclopropane carboxylate (cycloprothrin), [1a, 3a(Z)]-(±)-cyano-(3- phenoxyphenyl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-

cimethylcyclopropanecarboxylate (cyhalothrin), [1 alpha (s), 3 alpha(z)]-cyano(3-phenoxyphenyl)methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropane carboxylate (lambda cyhalothrin), (2-methyl [1,1'-biphenyl]-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-cyclopropanecarboxylate (bifenthrin), 5-1-benzyl-3-furylmethyl-d-cis(1R,3S,E)2,2-dimethyl-3-(2-oxo,-2,2,4,5 tetrahydrothiophenylidenemethyl)cyclopropane carboxylate (kadethrin), [5-(phenyl methyl)-3-furanyl]-3-furanyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropane carboxylate (resmethrin). (1R-trans)-[5-(phenylmethyl)-3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (bioresmethrin), 3,4,5,6-tetra hydro-phthalimidomethyl-(IRS)-cis-trans-chrysanthemate (tetramethrin), 3-phenoxybenzyl-d,l-cis,trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane carboxylate (phenothrin), empenthrin, cyphenothrin, prallethrin, imiprothrin, (RS)-3-allyl-2-methyl-4-oxocyclopent-2-enyl-(1A,3R; 1R,3S)-2,2-dimethyl-3-(2-methylprop-1-enyl) cyclopropane carboxylate (allethrin), bioallethrin, and ZXI8901;

c) an oxadiazine derivative selected from the group consisting of 5-(2-chloropyrid-5-yl)methyl-3-methyl-4-nitroiminoperhydro-1,3,5-oxadiazine, 5-(2-chlorothiazol-5-yl)methyl-3-methyl-4-nitroiminoperhydro-1,3,5-oxadiazine, 3-methyl-4-nitroimino-5-(1-oxido-3-pyridinomethyl) perhydro-1,3,5-oxadiazine, 5-(2-chloro-1-oxido-5-pyridiniomethyl)-3-methyl-4-nitroiminoperhydro-1,3,5-oxidiazine, 3-methyl-5-(2-methylpyrid-5-yl)methyl-4-nitroiminoperhydro-1,3,5-oxadiazine, and thiamethoxam;

d) a chloronicotinyl insecticide selected from the group consisting of acetamiprid ((E)-N-[(6-chloro-3-pyridinyl)methyl]-N'-cyano-N-methyleneimidainide), imidacloprid (14(6-chloro-3-pyridinyl)methyl)-N-nitro-2-imidazolidinimide), and nitenpyram (N-[(6-chloro-3-pyridinyl)methyl]-N-ethyl-N'-methyl-2-nitro-1,1-ethenediamine);

e) a nitroguanidine insecticide selected from the group consisting of pyrroles: pyrazoles chlorfenapyr (4-bromo-2-(4-chlorophenyl)-1-ethoxymethyl-5-trifluoromethylpyrrole-3-carbonitrile), fenpyroximate ((E)-1,1-dimethylethyl-4-[[[(1,3-dimethyl-5-phenoxy-1H-pyrazole-4-yl)methylene]amino]oxy]methylbenzoate), and tebufenpyrad (4-chloro-N[[4-1,1-dimethylethyl]phenyl]methyl]-3-ethyl-1-methyl-1H-pyrazole-5-carboxamide);

f) a phenyl pyrazole selected from the group consisting of fipronil (5-amino-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethylsulfanyl)-1H-pyrazole-3-

carbonitrile), a diacylhydrazine, halofenozide (4-chlorobenzoate-2-benzoyl-2- (1,1-dimethylethyl)-hydrazide), methoxyfenozide (RH-2485, N-tert-butyl-N'-(3-methoxy-o-toluoyl)-3,5-xylohydrazide), and tebufenozide (3,5-dimethylbenzoic acid 1- (1,1-dimethylethyl)-2,(4-ethylbenzoyl) hydrazide);

g) a triazole selected from the group consisting of amitrole and triazamate;

h) a biological/fermentation product selected from the group consisting of avermectin (abamectin) and spinosad (XDE-105);

i) an organophosphate insecticide selected from the group consisting of acephate, chlorpyrifos, chlorpyrifos-methyl, diethoxy-(6-methyl-2-propan-2-ylpyrimidin-4-yl)oxy-sulfanylidene phosphorane, fenamiphos, and diethyl 2-dimethoxyphosphinothioylsulfanylbutanedioate; or

j) a carbamate insecticide selected from the group consisting of aldicarb, carbaryl, carbofuran, oxamyl, and thiodicarb.

25. (Previously presented) The seed blend of claim 13, wherein said mixture consists of from about 2% to about 5% refuge seeds, from about 5% to about 10% refuge seeds, from about 1% to about 10% refuge seeds, or from about 10% to about 20% refuge seeds.

26. (Previously presented) The seed blend of claim 13, wherein said mixture consists of from about 1% to about 10% refuge seeds.

27. (Previously presented) The seed blend of claim 13, wherein the first and second insecticidal transgenes are insecticidal to the same target pest.

28. (Previously presented) The seed blend of claim 13, wherein at least one of the first and second insecticidal transgenes is insecticidal to a corn rootworm.

29. (Previously presented) The seed blend of claim 13, wherein the first and second insecticidal transgenes are insecticidal to different target pests.

30. (Previously presented) The seed blend of claim 29, wherein the different target pests are a coleopteran insect and a lepidopteran insect.

31. (Previously presented) The seed blend of claim 13, wherein the first or second insecticidal

transgene encodes a Cry3Bb insecticidal protein.

32. (Previously presented) The seed blend of claim 31, wherein the first and second insecticidal transgenes encode a Cry3Bb insecticidal protein and PS149B1.

33. (Previously presented) The seed blend of claim 13, wherein the refuge seeds are transgenic.

34. (Previously presented) The seed blend of claim 33, wherein the refuge seeds and first transgenic crop seed comprise a transgene conferring herbicide tolerance.

35. (Previously presented) The seed blend of claim 34, wherein the transgene conferring herbicide tolerance confers tolerance to a herbicide selected from the group consisting of glyphosate, basta, and glufosinate.

36. (Previously presented) The seed blend of claim 13, wherein the refuge seeds and first transgenic crop seed are of the same variety.